



3D models, copyright and the public domain

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Rights statements on 3D models

In the Europeana ecosystem, every digital object needs to be accompanied by a rights statement.

Which rights statement should be applied to a 3D model?



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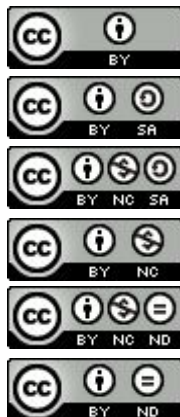
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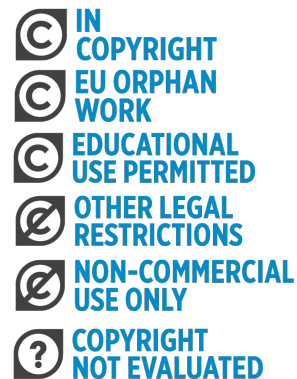
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Rights Statements



Standardised rights information

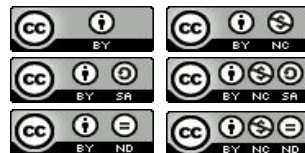
Is there copyright protection?

NO



NON-COMMERCIAL USE ONLY
 OTHER LEGAL RESTRICTIONS

YES



EDUCATIONAL USE PERMITTED

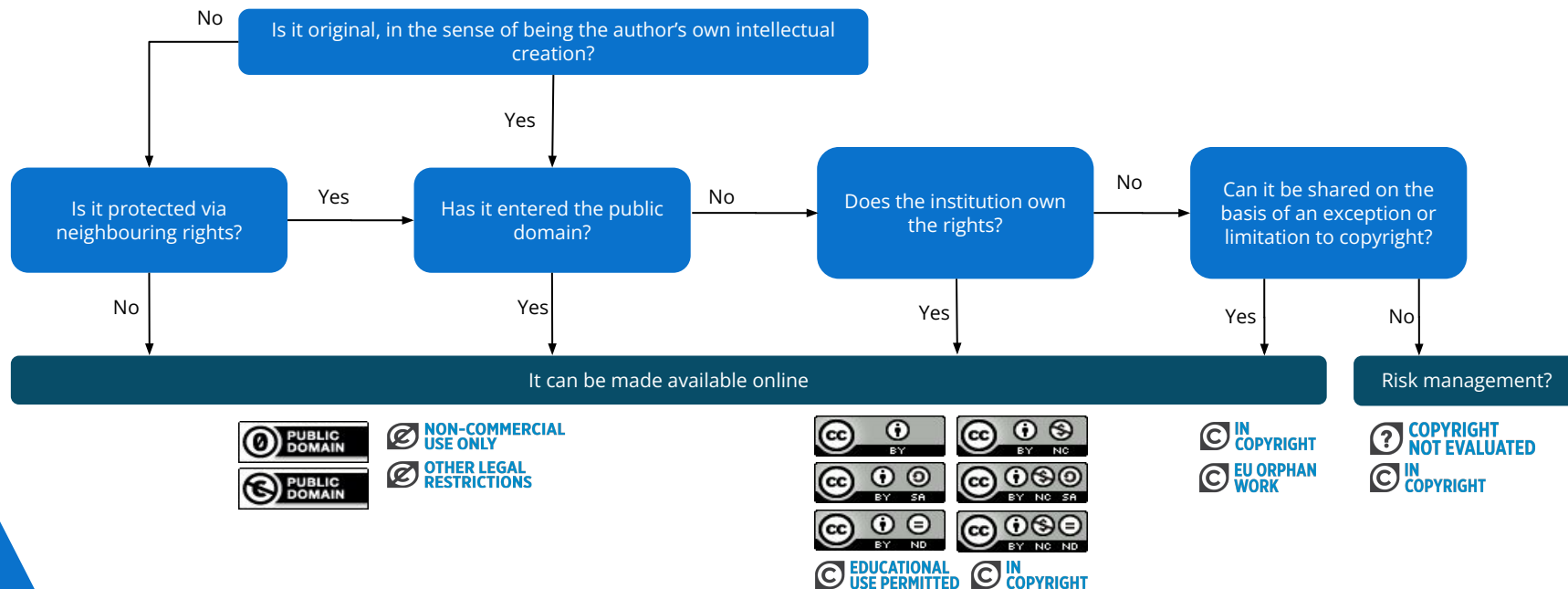
IN COPYRIGHT

EU ORPHAN WORK

UNKNOWN

COPYRIGHT NOT EVALUATED

Choosing an accurate rights statement



Are there rights on digital reproductions?



In Copyright



Casca 2

The Steinheil Casca II is a remarkable 35mm rangefinder camera that was introduced in 1949 by the Munich-based company C. A. Steinheil & Söhne. It is considered one of the most advanced cameras of its time and is characterised by several innovative features. The Casca II has an integrated coupled rangefinder, a unique bayonet interchangeable lens system. Instead of a conventional shutter speed dia...

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Some organisations claim there is copyright in the 3D model, even if the underlying object might be in the public domain.

Are there rights on digital reproductions?



3D model

Also in the public domain, or is there new copyright?

About copyright protection

- Copyright protection is recognised on original works
- Copyright protection arises automatically
- No registration is needed
- No official organisation can decide whether copyright exists or not - only a judge, through a court case
- We have to make our own assessment - best guess based on law and case law

When is there copyright protection?

There is **originality** if sufficient **creative choices** are made that result in the work being the author's own intellectual creation



Photograph of Marilyn Monroe



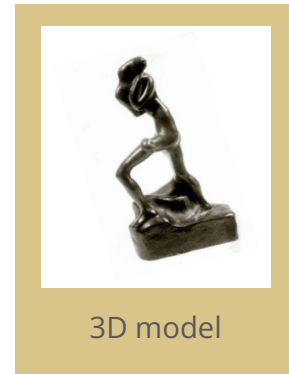
Artwork by Andy Warhole

When is there copyright protection?

There is **originality** if sufficient **creative choices** are made that result in the work being the author's own intellectual creation



Were creative choices
made?



When is there copyright protection?

If **creative** choices drive the making of the 3D model - **new copyright**

If **technical** choices drive the making of the 3D model - **no new copyright**

3D Models and Rights Management report



3D Models & Rights Management

A Report on Copyright and Other Rights Assessments
for 3D Models in Europeana

Revision	<i>Final Report</i>
Last updated	<i>23 August 2024</i>
Author(s)	<i>Dr Andrea Wallace and Dr Francesco Farmer, GLAM-E Lab at the University of Exeter Law School</i>
Contributor(s)	<i>Michael Weinberg, GLAM-E Lab at the Engelberg Center on Innovation Law & Policy, NYU Law School</i>
Dissemination Level	<i>Public, CC BY 4.0</i>

while the underlying cultural heritage objects are overwhelmingly in the public domain

93%

of their 3D digitisations are subject to copyright claims

When is there copyright protection?

“ Even when they require significant time, expertise, and investment, non-original 3D models do not receive copyright protection. This exposes a certain irony for 3D heritage projects: *the more someone invests in making a model accurate, the less likely it is to become the author’s own intellectual creation.* By contrast, the more “original” the model, the less useful it becomes for study and other purposes that require reliable data and accuracy. ”

When is there copyright protection?

If **technical** choices drive the making of the 3D model - **no new copyright**

If **creative** choices drive the making of the 3D model - **new copyright**

Example of an exact replica



The **underlying** cultural heritage object is not subject to any copyright protection. It is in the public domain.

The **3D model** accurately depicts the work. In any case, the resulting model does not appear to be a new original work, in the sense that it would be the author's own intellectual creation.



Example of a reconstruction



The 3D model has been made using pictorial, photographic and technical documentation, including a combination of an inventory of wooden structures with 3D scans of the market square.

If this reconstruction is **not uniquely based on scientific information** but is the result of an author's own intellectual creation, the data provider might be able to argue that the 3D model is **subject to copyright protection**.



Reminder

If new copyright arises, the copyright belongs to you, and you can waive it or license it openly.

Are there rights on digital reproductions?



Works that are in the public domain in analogue form should continue to be in the public domain once they have been digitised

— The choice of rights statements should reflect the public domain status of the underlying work.



View of Delft by Johannes Vermeer - Mauritshuis, Netherlands - Public Domain



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